

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF CHERYL) APPEAL NOS. 07-A-2520
WOLFE from the decision of the Board of) AND 07-A-2521
Equalization of Bonner County for tax year 2007.) FINAL DECISION
) AND ORDER

RESIDENTIAL PROPERTY APPEALS

THESE MATTERS came on for hearing November 7, 2007, in Sandpoint, Idaho, before Hearing Officer Steven L. Wallace. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Appellant Cheryl Wolfe's husband, Larry Wolf appeared. Assessor Jerry Clemson, Residential Supervisor Jeri Peterson and Appraiser Colleen Bunn appeared for Respondent Bonner County. These appeals are taken from decisions of the Bonner County Board of Equalization (BOE) amending the protests of the valuation for taxing purposes of properties described as Parcel No. RP000360010050A and Parcel No. RP000350000030A.

The issue on appeal is the market value of a residential property and a parcel improved with a shed.

The decisions of the Bonner County Board of Equalization are affirmed.

FINDINGS OF FACT

Parcel No. RP000360010050A (LOT 5)

The assessed land value is \$322,000, and the BOE reduced improvements' valuation is \$15,062, other valuation is \$930, totaling \$337,992. Appellant requests the land value be reduced to \$69,250, and improvements to \$6,704, totaling \$75,954.

Parcel No. RP000350000030A (LOT 3)

The reduced assessed land value is \$30,590, and the improvements' valuation is \$2,314, totaling \$32,904. Appellant requests the land value be reduced to \$16,000, and the

improvements valuation to \$900, totaling \$16,900. Lot 5 is Appellant's long term residence.

At hearing Mr. Wolfe testified the properties were owned individually by his wife. According to the Board of Tax Appeals Rule 30, the right to appear and practice before the Board is limited to five (5) entities¹ and Mr. Wolfe is not qualified to appear before the Board in these appeals. Therefore, the information presented by Mr. Wolfe will not be considered by this Board. As Mrs. Wolfe did not appear at the hearing the deliberations in this matter will be based on information in the record which is signed by Mrs. Wolfe.

The subject properties consist of two lots, one is a waterfront residential lot on Lake Pend d'Oreille. The other lot is a secondary lot contiguous to and located behind the first lot. Both lots have restricted or foot only access. The area is in a recent revaluation area.

The Appellant claimed there exists a problem with water moving through subject lots together with accompanying soil erosion. According to Appellant, the Bonner County BOE used fraud, prejudice and inaccurate comparisons for 2007 and other years' assessments. The property value should be reduced because of the "excess water, silt, debris and sewage from neighbors' properties." This runoff includes "EColi bacteria, virus and parasites."

Appellant claimed the Assessor had no comparables to support the appraised value. Appellant noted some neighboring lots sold for \$99,000, \$150,000 and \$199,000 whereas subject lots are valued at \$322,000 and \$30,590. No details were furnished regarding these sales.

In the written record, Appellant had complaints regarding the neighboring property, property owners, and the officials of County and State government. We have no jurisdiction to

¹ Natural Person, a Natural Person must represent himself or herself or be represented by an attorney. Corporations. LLC. Partnerships, Joint Ventures, Trusts. Authorized Attorneys. Public officers.

address these issues.

According to the Assessor, Lot 5 has 100 feet of waterfront which is level with a rocky beach. The residence on the property is a small ranch style residence with “minimal quality of construction[,] with considerable depreciation and functional obsolescence.” Respondent presented three vacant land sales which were compared to subject (Lot 5). The first property sold for \$3,056 per front foot and is located across the bay from subject. The second property sold for \$8,486 per front foot, is located 8 miles northwest of subject, has superior access and is closer to services. The third bare land sale is located 5 miles west of subject, has 100 feet of waterfront, and recently sold for \$3,713 per front foot. This property is located in a slough, with inferior waterfront because of changes in water level and access to the lake.

Subject (Lot 5) residence is assessed for \$16.73 per square foot. The Assessor's comparable sales had a mean and median value per square foot of \$31.78 and \$21.44 respectfully. Subject's value per square foot is below the average and the Respondent believed the negative factors of the parcel are duly reflected.

Lot 3 appears to have the same condition with runoff and pollution as Subject (Lot 5) and Appellant's unappealed Lot 4. Appellant claimed Lot 3 has steepness and access problems like Lot 4, and should have the same assessed value, or \$21,160.² The roofless storage shed on Appellant claimed Lot 3 is overvalued. Appellant wrote that Lot 5, Bottle Bay Tracts, 1st Addition sold for \$19,000 and Lot 6 of the same Addition sold for 18,500. No further information like year sold or the comparables characteristics was furnished.

One of the Assessor's two improved sales had a smaller cabin in slightly better condition,

²The Assessor testified this value was a reduction given by the BOE and requested this Board raise it to the original assessed value.

located close to subject, and had similar beach front, but had a higher land value. This property sold for \$540,000. Subject (Lot 5) is assessed for \$337,992. Few details were furnished and less weight was given to the second sale as it was believed to have superior construction quality and less depreciation than subject.

The Assessor furnished photographs of Subject (Lot 5) taken in October 2005. One of the photographs shows part of the the cabin's underside with logs and boards apparently bracing the residence up. It was noted the cabin was lived in and is functioning as a residence. The Assessor testified the assessed value of subject reflects the condition of the property.

Lot 3 is a second tier waterfront parcel. The Assessor found two 2006 comparable sales. The first sale was .162 acres which sold for \$52,000. The second sale was .306 acres which sold for \$130,000. Subject (Lot 3), .167 acres, is assessed for \$32,904. These two sales are located within five (5) miles of subject and are similar.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The Board of Tax Appeals has no jurisdiction over the actions of neighboring property owners, or County and State government officials, and therefore will not address these issues. The assessed value of the unappealed parcel (Lot 4) is outside our jurisdiction also.

Idaho law requires all property not expressly exempt be assessed at market value. Market value is defined in Idaho Code § 63-201(10) as follows (see also State Tax Commission

Rule 217, IDAPA 35.01.03.217.01:

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The Supreme Court has held market value determinations are primarily a factual issue which holding appears germane to the determination of subjects’ assessed value. See Merris v. Ada County, 100 Idaho 59, 593 P.2d 394 (1979) and Estate of Harry W. Morrison v. Idaho State Tax Comm’n, 98 Idaho 766, 572 P.2d 869 (1977).

A proper determination of the market value of taxable property should involve an analysis of multiple factors. In this appeal the main factor under appeal is the detrimental affects of the runoff, believed by Appellant to be contaminated, that passes through subject parcels. Respondent contends these conditions were viewed and considered and properly accounted for in the assessment of subjects.

The Appellant furnished no support for the values claimed in the appeals. No comparable sales information was submitted for the Board to consider. No error was presented in the assessed values established by the Assessor to compensate for the conditions of subject land and improvements. Absent a showing that an assessed valuation of property was prejudicially discriminative as to the property, or that the assessment was otherwise unlawful or erroneous, the presumption prevails that the value affixed by the assessor is correct. Janss Corp. vs. Board of Equalization of Blaine County, 93 Idaho 928, 478 P.2d 878 (1970).

This Board concludes Appellant has not proved the inaccuracy of subjects’ assessment, or that the claims for reduction are warranted, therefore we affirm the decision of the Bonner

County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcels be, and the same hereby is, affirmed.

MAILED FEBRUARY 26, 2008